

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA

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James Harold Williams,

Plaintiff,

v.

Cecilia R. Reynolds, Tanya Huntley,
Mark Stokes, Kristopher Sweet,
Ofc. Channell, Ofc. Shumate, Ofc. Wright,
and Allison McCaskill, individually and in
their official capacity,

Defendants.

No. 4:12-cv-138-RMG

ORDER

This matter is before the Court on the Report and Recommendation ("R&R") of the Magistrate Judge recommending that the Court grant Defendants' motion for summary judgment. (Dkt. No. 74). For the reasons set forth below, the Court agrees with and adopts the R&R as the order of the Court.

Background

Plaintiff, proceeding *pro se*, filed this civil action pursuant to 42 U.S.C. § 1983 alleging violations of his constitutional rights during his incarceration by the South Carolina Department of Corrections at the Kershaw Correctional Institution. (Dkt. No. 1). Pursuant to 28 U.S.C. § 636(b) and Local Civil Rule 73.02(B)(2)(d) DSC, this case was automatically referred to a Magistrate Judge for pretrial proceedings. On December 13, 2012, Defendants filed a motion for summary judgment. (Dkt. No. 61). On February 8, 2013, Plaintiff filed a response in opposition to the motion. (Dkt. No. 71). The Magistrate Judge then issued an R&R recommending the Court grant Defendants' motion for summary judgment. (Dkt. No. 74). Plaintiff failed to file timely objections to the R&R.

Legal Standard

The Magistrate Judge makes only a recommendation to this Court. The recommendation has no presumptive weight, and the responsibility for making a final determination remains with this Court. *Mathews v. Weber*, 423 U.S. 261, 270-71 (1976). This Court is charged with making a de novo determination of those portions of the R&R to which specific objection is made. Additionally, the Court may “accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge.” 28 U.S.C. § 636(b)(1). This Court may also “receive further evidence or recommit the matter to the magistrate judge with instructions.” *Id.*

In reviewing these pleadings, the Court is mindful of Plaintiff’s *pro se* status. This Court is charged with liberally construing the pleadings of a *pro se* litigant. *See, e.g., De’Lonta v. Angelone*, 330 F.3d 630, 633 (4th Cir. 2003). The requirement of a liberal construction does not mean, however, that the Court can ignore a plaintiff’s clear failure to allege facts that set forth a cognizable claim, or that a court must assume the existence of a genuine issue of material fact where none exists. *See United States v. Wilson*, 699 F.3d 789, 797 (4th Cir. 2012).

Discussion

After review of the record and the R&R, the Court finds that the Magistrate Judge applied sound legal principles to the facts of this case and therefore agrees with and adopts the R&R as the order of the Court. The Court agrees that Plaintiff has failed to create a genuine dispute of fact regarding whether Defendants used excessive force, were deliberately indifferent to a serious risk of harm, or retaliated against him while he was a prisoner at the Kershaw Correctional Institution. The Court therefore agrees that Defendants are entitled to judgment as a matter of law. Fed. R. Civ. P. 56(a).

Conclusion

As set forth above, the Court agrees with and adopts the R&R as the order of the Court. (Dkt. No. 74). Accordingly, the Court GRANTS Defendants' motion for summary judgment. (Dkt. No. 61).

AND IT IS SO ORDERED.



Richard Mark Gergel
United States District Court Judge

August ²⁷____, 2013
Charleston, South Carolina